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STATE PASS USTR FOR NED SAUMS  
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TAGS: [ETRD](#) [KIPR](#) [JO](#)

SUBJECT: Jordanian IPR Enforcement: Good on Interdiction,  
Weak on Prosecution

Ref: Amman 1233

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SUMMARY  
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1. (u) The GOJ has made good progress implementing Intellectual Property Rights (IPR) legislation in the last two years. As a result, the share of pirated material in the market has dropped considerably since 2000. Despite this progress, though, the current system has some flaws. There is a need to improve coordination between departments and to improve the human and financial resources of implementing bodies (notably the National Library). The IPR legislation itself has some limitations that need addressing as well, in particular the overlap between civil and criminal law that allows most IPR violators to escape serious punishment. We continue to work with a number of GOJ agencies to encourage continued reform and improvement of the IPR environment. End summary.

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What Works: Customs Interdiction Procedures  
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2. (u) Current GOJ Customs procedure differentiates between commercial shipments and personal items accompanying travelers. Commercial shipments arriving at any point of entry must be cleared at one of the main customs clearing centers - the Queen Alia International Airport (QAIA) and the Amman Customs House. Under current practice, more than 20 copies of a single or multiple titles (for a/v and software products) constitute "commercial quantities." Personal a/v or software property is collected by the customs house at the point of entry and sent to the Amman Customs Clearing Center. The traveler is given a receipt for redeeming his property in Amman.

3. (u) Based on our observations at the Syrian border crossing points and the Amman Customs House, Jordanian customs officials are fairly adept at spotting and interdicting counterfeit goods. While they do not have a "profile" developed for potential smugglers of pirated a/v and software goods, their professional experience - and periodic training from WIPO, USAID, and other organizations - gives them a good sense for spotting potential importers of such goods. However, due to the small size of such products (hundreds can fit in a shoebox), it is extremely difficult for customs officials to completely stop the flow of pirated goods.

4. (u) Once IPR-related goods arrive at the Amman Clearing Center, samples are sent to the Censorship Office in the Ministry of Information, which inspects it to ensure it does not contain "culturally or politically offensive" material (i.e., in most cases, pornography or items critical of the royal family). The Censorship Office does not check for copyright infringements.

5. (u) In parallel to this process, the clearing center assesses shipments for copyright infringements and informs the National Library (NL) in writing of receipt of questionable commercial shipments and any questionable personal items exceeding 20 CD's per traveler. If the NL concludes after inspecting the goods that they are pirated, they inform Customs, which in turn informs the registered authorized agents about the interdiction. The agent then has eight days to file a legal case against the importer. If the eight days pass without such an action from the agent, or if there is no registered agent, then Customs releases the pirated goods to the importer. (Note: This system places most of the initial prosecutorial burden on the registered agent. End note.)

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National Library Still Struggling to Exert Authority  
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6. (u) The National Library is part of the Ministry of Cultural Affairs. Its Director General, Ma'amoun Talhouni, reports directly to the Minister of Cultural

Affairs. In addition to its role of monitoring and registering copyrights, the Library has several functions that dilute its resources allocated to IPR enforcement, including archiving and repository functions for all Jordanian intellectual property productions and GOJ official documents, documenting national bibliographies, and supervising public libraries. The NL functions are spread over 9 departments, one of which is the Protection of IPR Office. While the Library is responsible for copyright enforcement related to printed materials, a/v and software, other aspects of IPR are the responsibility of other government departments. For example, the Ministry of Industry and Trade is responsible for trademark and patent enforcement, often in conjunction with other agencies (like the Health Ministry for new drug registrations, e.g.).

17. (u) Current law entrusts the Library with monitoring the market for pirated printed, a/v, and software goods. Talhouni notes that the law limits the Library's authority to monitoring and inspection of licensed shops only. The Library is powerless to inspect or interdict street vendors, for example. Thus it is not uncommon for shop owners to store pirated goods close to their place of business but not physically inside it to avoid prosecution.

18. (u) The Library has only six IPR officers on staff to conduct inspections of shops country-wide. These officers are sometimes supported by local police forces at their request. While this staff is dedicated and well-trained, it faces many technical obstacles to effective monitoring and interdiction. When a Library officer finds pirated materials in a licensed shop, it confiscates the materials and proceeds to legal action. However, since registered agents are frequently unwilling to press charges against violators for fear of alienating customers and losing legitimate sales, much of the Library's work goes for naught.

19. (u) At the same time, the technical process for confiscating goods is cumbersome - officers must catalogue every copy of a title they take, often by hand, to facilitate return of the merchandise to the shopkeeper if it turns out to be legitimate or the registered agent does not prosecute. And shopkeepers often sell pirated product only after-hours, when officers are not on duty to monitor the shops.

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What Doesn't Work: Legislation, Prosecution  
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10. (u) The Jordan Intellectual Property Association (JIPA) reports a significant improvement in enforcement action on copyright issues by the GOJ. According to their statistics, in the year 2000 no CD's were confiscated, 1,782 were confiscated in 2001, and 37,084 in 2002. They note also that the Library brought 6 copyright infringement cases before the courts in 2000, compared to 149 in 2001 and 274 in 2002. A local law office specializing in IPR similarly noted that while in 1995, 87% of all CD's on the local market were pirated, the number dropped to 67% by 2002.

11. (u) Despite this improvement, though, most agents, lawyers, and even enforcement bodies maintain that current laws are not strong enough to fully deter violators. The current legislation limits the jurisdiction of the Library to licensed shops, does not allow Customs or the Library to take legal action against violators absent a complaint by the relevant authorized agent, and allows judges to reduce FTA- and WTO-mandated sentences for violators, making fines far less of a deterrent to selling unauthorized goods.

12. (u) Jordan does not have a special court dedicated to adjudicating intellectual property cases. IPR lawyers complain that courts may take several months, and sometimes more than a year or two, to reach a verdict on IP related complaints. And even when those complaints are successfully prosecuted, they are frequently overruled on appeal or by the Supreme Court, as appellate and Supreme Court judges are less sensitized to the finer points of Jordan's new IPR laws, and tend in any case to have more sympathy for shop owners than registered agents. Meanwhile, as court cases drag on, the defendant is usually free to return to his shop, and often resumes sales of unauthorized product immediately.

13. (u) Even cases that are ultimately successfully prosecuted, sources say, make little or no dent on the availability of illicit product. Private sector sources note that judges tend to be lenient when issuing verdicts, and often rely on clauses in the criminal and penal codes to reduce penalties for IPR violations. Thus a guilty party facing an initial penalty of JD 6,000 (\$8,460) under civil law will usually have his sentence dramatically reduced to an insignificant amount, in some cases as low as

JD 20 (\$28) by appellate court judges under the "humanitarian relief" clause of the criminal code (Article 100), which gives the court the latitude to modify sentences that would cause undue hardship on the convicted's family. This is possible since although the IP law is a civil law, it has a penal aspect to it in the form of fine and/or imprisonment that allows judges to invoke articles from otherwise irrelevant criminal or penal codes. As a result, IPR violators go essentially unpunished, paying off their fines through sales of additional illicit product in a matter of hours.

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Fixing the System  
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14. (u) Despite its shortcomings, Jordan's IPR regime is lauded by international IPR watchers as a model for the region. The GOJ remains willing and eager to improve its protection of intellectual property rights, seeing a stronger regime as an excellent marketing tool for attracting knowledge-based investments into the kingdom. Jordan is keen to build a "knowledge-based economy," and thus should continue to respond favorably to any overtures that would help it improve IPR protections.

15. (u) An AMIR-funded study of Jordan's IPR regime, published on July 17, 2002, praised the work of the National Library, and noted areas where additional resources and training would help improve the Library's ability to enforce IPR laws in Jordan. Using this report as a starting point, we are working with the Library, Customs, and the private sector to identify programs that could be put to best use to improve capacity in the government, including the courts, to police IPR violators. In addition to training programs through USAID, we are looking at ways to better use International Visitor (IV) and guest speaker programs to heighten IPR awareness in Jordan's government structure, the local business community, and the press. For example, we plan to send a group of publishers on an IV program next fiscal year, during which they will be exposed to IPR issues in the U.S.

16. (u) We will also soon begin to look at IPR-related legislation itself, with an eye toward improving the foundation on which good IPR enforcement is based. This could mean, inter alia, finding a way to deconflict Jordan's civil and criminal laws so that decisions made in one arena are not reversed on technicalities in another. It could also mean looking at current enforcement laws to find ways to broaden the scope of the Library's authority, and to improve communications among various government agencies involved in IPR enforcement. Ultimately, we may also look at the feasibility of encouraging the GOJ to move the copyright function out of the Library and put it, for example, in the Trade Ministry, where it could be better funded and staffed.

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